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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/632,295	08/03/2000	Jay S. Walker	96-200X	1956

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EXAMINER

WEISBERGER, RICHARD C

ART UNIT PAPER NUMBER

2164

DATE MAILED: 04/02/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/632,295

Applicant(s)

WALKER ET AL.

Examiner

Richard C. Weisberger

Art Unit

2164

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 60-69 is/are pending in the application.
- 4a) Of the above claim(s) 61-69 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 60 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

Election/Restrictions

Applicant's election of claim 60 in Paper No. 8 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Newly submitted claims 72-80 –renumbered as 61-69- directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The inventions of claim 60 and claim 61 are separate inventions or in the alternative are subcombinations usable together (MPEP 806.05(d)). The method of claims 61 has utility in creating a line of credit without the customer opting in.

Accordingly, claims 72-80 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 112

Claim 60 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

If the scope of the invention sought to be patented cannot be determined from the language of the claims with a reasonable degree of certainty, a rejection of the

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claims under 35 U.S.C. 112, second paragraph is appropriate. In re Wiggins, 488 F.2d 538, 179 USPQ 421 (CCPA 1973). Here, the invention sought to be patented with the limitation "obtaining an indication from a credit provider that a line of credit has been established" is unclear. What is an indication? How does this differ from an approval? In addition, the invention sought to be patented with the limitation "a line of credit has been established" is unclear. What is the legal significance of established? While the applicant is free to select claims language, it should conform the industry standards (i.e., U.S. Consumer Credit Acts). Similarly, "credit line" is unclear. Does this include a credit card? Most significantly however, the limitations "expected to arrive at a particular location" and "while said customer is at said location" fails to convey with the necessary certainty what the applicant regards as his invention. The boundaries of the invention are unreasonably vague (i.e., expected (by whom? using what standard? or "particular location" (defined by whom? how particular?). Lastly, the limitation "chargeable event" is lack specificity.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

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Claim 60 is rejected under 35 U.S.C. 102(b) as being clearly anticipated via "Official Notice".

Official Notice is taken to the following business method:

- (1) A preapproved credit card is issued and mailed to the approved home
- (2) The approved calls the credit card company to activate the card and is charged an activation fee.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard C Weisberger whose telephone number is 703 308-4408 and whose email (preferred) is richard.weisberger@uspto.gov.

 Richard C Weisberger
Primary Examiner
Art Unit 2164

RW
March 21, 2002